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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,593	11/24/2003	Bradley C. Aldrich	10559-186002	5807
20985	7590	04/04/2006		EXAMINER
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			REKSTAD, ERICK J	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/721,593	ALDRICH ET AL.
	Examiner Erick Rekstad	Art Unit 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-35 and 37-50 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 34,35,37-41 and 44-49 is/are allowed.
- 6) Claim(s) 24-32 and 42 is/are rejected.
- 7) Claim(s) 33, 43 and 50 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This is a Second Non-Final rejection for application no. 10/721,593 in response to the amendment filed on January 19, 2006 where in claims 24-50 are presented for examination.

Please note the Art Unit of the examiner has changed from 2613 to 2621.

Double Patenting

Claims 24-32, and 42 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9, 22 and 23 of U.S. Patent No. 6,654,502. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims do not further limit the claims 1-9, 22 and 23 of US Patent 6,654,502.

In regards to claims 24-32, the claims only provide the "portable communication device" in the pre-amble. Therefore, the claims do not further limit claims 1-9 of US Patent 6,654,502. In order to further limit the claims the requirement of "portable communication device" must be presented within the body of the claim such as in claim 33.

In regards to claim 42, the claim is the combination of claims 22 and 23 with no further limitations added.

Claim 50 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 39. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of

the allowed claim. See MPEP § 706.03(k). The rewording of "calculation partitioning element" to "means for partitioning a calculation" does not overcome the duplication as the specification supports the only means for partitioning a calculation is the "calculation partitioning element"

Allowable Subject Matter

Claims 33 and 43 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 34, 35, 37-41, and 44-49 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 571-272-7338. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2613

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER